

REMARKS/ARGUMENTS

This amendment is submitted in response to the non-final Office Action dated April 15, 2008. Claims 27-33 and 36-39 have been amended and new Claim 40 has been added. Claims 1-40 remain pending. Support for the amendments can be found in the Specification. No new matter has been added. Reconsideration of the rejections and allowance of the pending claims is respectfully requested.

Amendment to the Specification

Applicant has amended the Specification to explicitly recite text which was previously incorporated by reference. More specifically, support for the newly added paragraph can be found in paragraph [0303] of U.S. Patent Application Ser. No. 10/738,358 (now U.S. Patent No. 7,293,873), which was incorporated by reference into the subject application in paragraph [0030] of the originally filed Specification for the subject invention. Hence, no new matter has been added.

Drawing Objections

The drawings were objected to for failing to show every feature specified in the claims, specifically "ablative shape module" in Claim 28 and "peripheral zone for viewing distant objects" in Claim 36.

Claim 28 has been amended and no longer recites an "ablative shape module." Regarding Claim 36, Applicant respectfully submits that the indicated feature is shown at least in Figure 1 at reference number 104, as described in paragraph [0034] of the specification. Accordingly, Applicant believes that no amendments to the current drawings are necessary.

Claim Rejections Under 35 U.S.C. §112

Claims 27-39 were rejected under 35 U.S.C. § 112, ¶1 as failing to comply with the enablement requirement; however, it appears that the substantive portion of the rejection was omitted. However, Applicant believes that a rejection of Claim 27, as amended, under 35 U.S.C. § 112, ¶1 is not applicable and respectfully requests that the rejection be withdrawn.

Claims 27-39 stand rejected under 35 U.S.C. § 112, ¶2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In view of the amendment of Claims 27-33 and 36-39, Applicant respectfully requests that the rejection of these claims be withdrawn. Claim 32 was additionally rejected under 35 U.S.C. § 112, ¶2 as indefinite with respect to the scaling of the diameter of the central ablation zone. In Claim 32, the scaling of the diameter of the central ablation zone is limited to "a diameter of a pupil" (emphasis added), which, when taken together with the rest of the disclosure, would be understood by one of ordinary skill in the art as a diameter suitable for providing the enhanced treatment of presbyopia, as described. Accordingly, Applicant respectfully requests that this rejection of Claim 32 also be withdrawn.

Claim Rejections Under 35 U.S.C. §102

Claims 1-3, 5, 9, 11, 14-17, 19, 23, 24, 26-30, 32, 36, 37, and 39 were rejected under 35 U.S.C. § 102(b) as being anticipated by Largent (U.S. Patent No. 6,312,424). Applicant respectfully traverses this rejection.

Claim 1 requires, *inter alia*, "ablating a central zone of a corneal surface of a *first* eye" and "ablating a peripheral zone of a corneal surface of a *second* eye" (emphasis added) to improve the patient's ability to view near objects through the central and peripheral zones of the first and second eyes, respectively. Similarly, the method claimed in Claim 15 requires, *inter alia*, ablating a corneal surface of a first eye according to a first ablative shape that enhances near vision through a central zone of the first eye and ablating a corneal surface of a second eye according to a second ablative shape that enhances near vision through a peripheral zone of the second eye. Largent does not show or suggest these features.

On the contrary, Largent discusses shaping different zones of a single eye to provide different vision correction in each zone. Largent also discloses varying the ablation of a single eye based on the underlying weakness of that eye (e.g. farsightedness) and preferably correcting the central region of the eye for intermediate distance vision. However, there is no teaching or suggestion of providing complementary ablation shapes for first and second eyes or of coordinating the ablation of a first and a second eye to improve near vision through different

zones of each eye. The present invention provides correction to the first and second eyes as a pair, providing corrected near vision through the central zone of one and through the peripheral zone of the other. As described in the Specification, the combination of the ablation shapes for the two eyes provides enhanced treatment for presbyopia as one eye predominates for near vision and the other for distance vision when the pupils constrict, and as the pupils dilate, the predominance of the eyes for near and far vision switches. Largent does not show or suggest that there should be any relation to the correction provided to a first eye when determining the correction of a second eye.

For these reasons, Largent does not teach each and every feature of Claims 1 and 15, thus it cannot anticipate the claims under 35 U.S.C. § 102(b). Accordingly, Applicant respectfully requests that the rejection of Claims 1 and 15 be withdrawn.

Claims 2, 3, 5, 9, 11 and 14 depend from Claim 1 and Claims 16, 17, 19, 23, 24 and 26 depend from Claim 15 and are allowable for at least the same reasons. In addition, with respect to Claims 2 and 16, Largent does not appear to expressly or inherently disclose ablating the eye to form a substantially spherical shape, as required to anticipate the claims. Therefore, Applicant respectfully requests that the rejection of each of these claims be withdrawn as well.

Claim 27 requires, *inter alia*, a processor coupled to a laser that directs ablation of a first ablative shape on a corneal surface of a first eye that enhances near vision through a central zone of the first eye and a second ablative shape on a corneal surface of a second eye that enhances near vision through a peripheral zone of the second eye. As discussed above, Largent does not show or suggest ablating a first and a second eye with complementary ablative shapes. Accordingly, as Largent does not teach each and every feature of Claim 27, it cannot anticipate the claim. Therefore, Applicant respectfully requests that the rejection of Claim 27 be withdrawn.

Claims 28-40 depend from Claim 27 and are allowable for at least the same reasons. In addition, Claim 28 requires, *inter alia*, "a tangible medium having a treatment table embodied thereon, wherein the treatment table includes reference coordinates," which is not shown or suggested by Largent. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn as well.

Claim Rejections Under 35 U.S.C. §103

Claims 4, 6-8, 10, 12, 13, 18, 20-22, 25, 31, 33-35, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Largent.


Claims 4, 6-8, 10, 12 and 13 depend from Claim 1, Claims 18, 20-22 and 25 depend from Claim 15 and Claims 31, 33-35 and 38 depend from Claim 27 and are allowable for at least the same reasons. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn as well.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,


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